

REMARKS

This application has been reviewed in light of the Office Action dated April 28, 2006.

Claims 1-28 are pending in the application. By the present amendment, claims 1, 5, 15, 16 and 19 have been amended. Claims 28 and 29 have been added. No new matter has been introduced.

The Examiner's reconsideration of the rejection in view of the amendment and the following remarks is respectfully requested.

By the office action, claims 15 and 19 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Applicant respectfully disagrees. The subject matter that the Applicant claims in claims 15 and 19 includes, *inter alia*, protrusions which include adjustable fan blades configured to permit a change in an angle relative to a central axis of a respective blade. The fan blades can rotate about their own central axis. This is clearly stated in the claims. One skilled in the art would understand how to configure the blades to permit rotation about their central axis, e.g., using pin connections or the like. It is respectfully submitted that the disclosure and figures also clearly show such capabilities. It is therefore respectfully submitted that the present claims 15 and 19 are definite and clearly point out and distinctly claim the invention.

However, to further clarify these claims, claims 15 and 19 have been amended to recite that the adjustable fan blades [are] configured to permit a change in an angle relative to a central axis of a respective blade. Reconsideration is earnestly solicited.

By the office action, claims 1, 2, 4, 6, 13 and 15 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,140,954 to Schroeder (hereinafter Schroeder).

Schroeder is directed to a confection where a handle 16 is attached to a propeller 10, where the propeller 10 is fixed to the handle 16 at first. The propeller 16 includes candy affixed to one blade 13. The propeller 16 can be detached from the handle 16 by breaking the connection to the handle 16. Then, after the candy has been eaten, the propeller 16 can be positioned on the handle 16 in a transverse orientation such that spinning the handle spins the propeller 10. The candy blocks the hole in the hub so attaching the hub to the handle to enable spinning motion is impossible until the candy is removed. In addition, the candy is applied to only one blade of the device so that even if the hub could be attached to the handle for spinning the device would work improperly until the candy were completely removed.

The present claims are not anticipated by Schroeder. The present claims provide a spinning propeller that includes a confection that does not hamper rotation of the blades or hub. The blades or hub can rotate while the confection is being eaten.

Claim 1 now recites, *inter alia*, a pinwheel comprising a first axis, which supports a hub; a plurality of protrusions connected to the hub and radially extending therefrom; candy items attached to a plurality of the protrusions; and a handle disposed substantially transverse to the first axis to permit the hub, plurality of protrusions and the candy items to rotate about the first axis.

In Schroeder, the hub 12 is covered by the candy 40. The propeller cannot rotate until the propeller is disassembled from the handle after the candy has been removed. Further, the handle in Schroeder is not disposed substantially transverse to the first axis to permit the hub, plurality of protrusions and the candy items to rotate about the first axis.

Therefore, Schroeder fails to disclose or suggest, *inter alia*, a handle disposed substantially transverse to the first axis to permit the hub, plurality of protrusions and the candy items to rotate about the first axis. Schroeder fails to disclose or suggest the present claims for at least the stated reasons. Reconsideration of the rejection is earnestly solicited.

By the office action, claims 16, 17, 19, 22, 23 and 27 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,221,409 to Bueno Ceresuela (hereinafter Bueno Ceresuela).

Bueno Ceresuela is directed to a platform that rotates when a belt turns a pinion attached to a handle. The assembly in Bueno Ceresuela is completely different from the present claims in that the “platform” supports an edible item for display. For example, a bowl of ice cream is placed on the platform and a belt is translated through the pinion box to rotate the platform so that the ice cream bowl spins.

Bueno Ceresuela fails to disclose or suggest all of the elements of claim 16. Claim 16 includes, *inter alia*, a pinwheel lollipop including a hub having a plurality of spokes extending radially therefrom, each spoke comprising a candy item molded thereon; the spokes forming blades for diverting air in an airstream such that when placed in an airstream the hub, spokes and candy items rotate relative to an axis which supports the hub.

Bueno Ceresuela does not disclose or suggest molding candy items to spokes. Bueno Ceresuela does not disclose or suggest diverting air in an airstream such that when placed in an airstream the hub, spokes and candy items rotate about an axis. Instead, the platform of Bueno Ceresuela turns when connected to a belt designed to rotate a pinion. No candy items are attached to spokes or rotate with the hub and spokes. In addition, the “hub” of the platform in Bueno Ceresuela does not rotate relative to an axis. Instead, the platform in Bueno Ceresuela

rotates with the axis handle and not relative to it.

It is therefore respectfully submitted that the cited reference, Bueno Ceresuela, fails to teach or suggest the present claims for at least the stated reasons. Reconsideration of the rejection is earnestly solicited.

By the office action, claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Schroeder in view of U.S. Patent No. 2,091,389 to Exline et al. (hereinafter Exline). Claim 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bueno Carasuela in view of Exline. Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Schroeder in view of U.S. Patent No. 6,416,800 to Weber et al. (hereinafter Weber). Claim 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bueno Carasuela in view of Weber. Claims 8, 9 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schroeder in view of Bueno Carasuela. Claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schroeder in view of U.S. Patent No. 6,530,816 to Chiu (hereinafter Chiu). Claims 24 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bueno Carasuela in view of Chiu. Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Schroeder in view of U.S. Patent No. 4,758,197 to Lee (hereinafter Lee). Claim 26 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bueno Carasuela in view of Lee.

The Applicant disagrees with these rejections. For example, a finger mechanism is not disclosed or suggested in Bueno Carasuela. Instead, a belt drive and pinion mechanism is shown.

Other reasons also exist which support allowance of these dependent claims. However, since these claims depend from independent claims believed to be in condition for allowance, these dependent claims are also believed to be in condition for allowance for at least the stated reasons.

Reconsideration is respectfully requested.

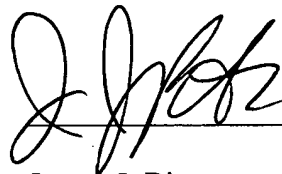
The Applicant notes with appreciation the allowability of claims 7 and 21 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Such claims have been added as claims 28 and 29, respectively, and are believed to be in condition for allowance.

A check in the amount of \$150.00 is enclosed for payment of the two additional claims and one independent claim for a small entity. It is believed that no additional fees are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's Deposit Account No. 50-1433.

In view of the foregoing amendments and remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration of the case is respectfully requested.

Respectfully submitted,

By:

 7/27/06

James J. Bitetto
Registration No. 40,513

Mailing Address:

KEUSEY, TUTUNJIAN & BITETTO, P.C.
20 Crossways Park North, Suite 210
Woodbury, NY 11797
Tel: (516) 496-3868
Fax: (516) 496-3869

JJB:tt

226-2 Amendments 7-27-06